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1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 NORTHERN DISTRICT OF MISSISSIPPI
3 OXFORD DIVISION

4 JAMES LEE SONS, individually and
on behalf of the wrongful death
beneficiaries of JAMES ALLEN
5 PARKS SONS, deceased PLAINTIFFS
6 VS. NO. 3:16-CV-181-MPM-RP
7 BENTON COUNTY, MISSISSIPPI, ET AL DEFENDANTS
8
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10 *****
11 VIDEOTAPED DEPOSITION OF A. A. "ARNIE" McMULLEN
12 *****
13
14
15 TAKEN AT THE INSTANCE OF THE PLAINTIFF
IN THE LAW OFFICES OF FARESE, FARESE & FARESE, P.A.
16 122 CHURCH STREET, ASHLAND, MISSISSIPPI
ON DECEMBER 7, 2016, BEGINNING AT 10:22 A.M.

17
18
19 APPEARANCES NOTED HEREIN

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21
22 Reported by: REGINA D. RUSSELL, RPR, CCR 1110

23
24 ADVANCED COURT REPORTING
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Page 2

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13 Also Present: JOE BATTS, Corporate
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15
16 ROB SAWYER, VIDEOGRAPHER
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1 **THE VIDEOGRAPHER:** This is the video
2 deposition of Sheriff A. A. "Arnie" McMullen, taken
3 by the Plaintiff in the matter of James Allen Parks
4 Sons, deceased, versus Benton County, Mississippi, et
5 al, U.S. District Court for the Northern District of
6 Mississippi, Oxford Division, Docket
7 3:16-CV-181-MPM-RP. This deposition is being held at
8 Farese, Farese & Farese, 122 Church Street, Ashland,
9 Mississippi, on December 7th, 2016. I'm Rob Sawyer,
10 Law Media Productions. The court reporter is Regina
11 Russell of Advanced Court Reporting. We're on the
12 record at 10:24 a.m. Counsel, would you identify
13 yourself for the record, which will be followed by
14 the swearing in of the witness by the Court Reporter.

15 **MR. STROUD:** Philip Stroud and James
16 Lees for the Plaintiff.

17 **MR. HILL:** Ray Hill for the
18 Defendants.

19 **A. A. "ARNIE" McMULLEN,** having been
20 duly sworn, testified as follows:

21 **EXAMINATION**

22 **BY MR. STROUD:**

23 **Q.** Sheriff, my name is Philip Stroud. You and
24 I met before this deposition and talked briefly.
25 Where do you -- have you ever given a deposition

Page 5

1 before?
 2 A. Yes.
 3 Q. How many times would you say?
 4 A. Just once.
 5 Q. Okay. And what was that about?
 6 A. It was on the same -- it was a hanging in
 7 the jail.
 8 Q. Do you remember when that was?
 9 A. '89 or '90. I'm not sure.
 10 Q. Do you happen to remember the name of the
 11 individual that brought a claim?
 12 A. Lonnie Cole.
 13 Q. Since it has been since 1989 or about since
 14 you gave your deposition, I'll just tell you a few
 15 things I'm sure your counsel has already been over
 16 with you. But, obviously, I'll be asking you some
 17 questions today and this lady here to my left will be
 18 taking down everything that I ask as well as
 19 everything you say in response. So it's going to be
 20 important that we don't talk over one another. I'll
 21 try and give you that courtesy if you'll do the same
 22 for me.
 23 A. I will.
 24 Q. If you need to take a break at any time,
 25 please let me know. This is not a marathon. But if

Page 7

1 A. Unh-unh (Indicating no).
 2 Q. Okay. Is there a reason why you haven't?
 3 A. I've just never seen it.
 4 Q. Okay. Have you ever asked to see it?
 5 A. No.
 6 Q. Okay. What about audio from the dispatch,
 7 did you listen to any of the audio recordings?
 8 A. No.
 9 Q. Okay. Is there a particular reason why as
 10 the chief law enforcement officer for Benton County
 11 who ultimately would be responsible for investigating
 12 a suicide within your jail, why you wouldn't want to
 13 actually see the video and investigate what happened?
 14 A. Well --
 15 MR. HILL: Object to the form.
 16 Assumes facts not in evidence. You can answer.
 17 A. When something like this happens I just
 18 turn it over to MBI, the bureau of investigations.
 19 Q. (Mr. Stroud) Have you reviewed the MBI
 20 investigation report?
 21 A. No.
 22 Q. So as we sit here today some year and two
 23 or three months after the fact, after Mr. Sons died
 24 in your jail, you don't have any idea where the
 25 investigation is with MBI?

Page 6

1 you do want to take a break, let's just get the last
 2 question on the table answered before we do it.
 3 Okay?
 4 A. That will be fine.
 5 Q. What have you reviewed today in preparation
 6 for your deposition?
 7 A. I just went over some of my policies and
 8 all.
 9 Q. Okay. Anything else?
 10 A. No. That's all.
 11 Q. Now, when you say you've been over some of
 12 your policies, are you referring to policies of the
 13 Benton County Sheriff's Department?
 14 A. Yes.
 15 Q. Specifically, what policies did you spend
 16 time reviewing?
 17 A. Just our medical and mental policies.
 18 Q. Medical and mental policies?
 19 A. Yeah.
 20 Q. Any others?
 21 A. No. That's all.
 22 Q. What about the video of Mr. Sons' hanging
 23 that was recorded by the jail?
 24 A. I've not ever seen it.
 25 Q. Never seen it?

Page 8

1 A. I've not talked to them. I've not looked
 2 at his report or anything. No.
 3 Q. And you haven't conducted any personal or
 4 independent investigation as the chief law
 5 enforcement --
 6 A. No.
 7 Q. -- officer in Benton County?
 8 A. No, sir.
 9 Q. Have you asked any of your agents or
 10 employees that are under you at the Benton County
 11 Sheriff's Department to conduct any independent
 12 investigation?
 13 A. Well, Chief Batts.
 14 Q. And that's at your direction?
 15 A. Yes.
 16 Q. Okay. Tell me what you told him to do as
 17 far as investigating this.
 18 A. Well, I didn't necessarily tell him. He
 19 knows to do it. What I mean, Joe does -- Joe does it
 20 for me.
 21 Q. Okay. Has he ever told you anything he has
 22 concluded as a result of his investigation?
 23 A. Well, we've talked about it just a little
 24 bit, you know, as far as -- and then I've read his
 25 report, you know.

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1 Q. So Mr. Joe Batts, the chief deputy,
2 actually completed an investigation report?

3 A. Yeah. He just, you know, wrote up a report
4 and I went over it.

5 Q. Okay.

6 MR. STROUD: Has that been produced,
7 Ray?

8 MR. HILL: Yes.

9 MR. STROUD: Okay. Just his
10 statement?

11 MR. HILL: Yeah. That's what he's
12 talking about. It's called an incident report.

13 Q. (Mr. Stroud) Anything else you've done
14 other than ask -- you didn't even ask, you just
15 assumed Mr. Batts would conduct an investigation,
16 right?

17 A. Yeah. I knew he would.

18 Q. Okay.

19 A. I wasn't present. I wasn't there that
20 week. I was off that week when he --

21 Q. In your review of what Mr. Batts concluded
22 in his investigative report, did you call for or make
23 any changes to either the personnel there at the
24 department or your policies relating to jail suicide?

25 A. All we done was change up some stuff in the

Page 10

1 cell. As far as changing anything other, you know,
2 we done some changing in the cell there.

3 Q. Okay. Tell me what changes you made, if
4 any.

5 A. This top bunk that he used, we removed it.

6 Q. Who recommended that?

7 A. I did.

8 Q. Okay. Anything else that was done as a
9 result?

10 A. No, sir. Not as far as -- unh-unh
11 (Indicating no).

12 Q. How long have you been sheriff of Benton
13 County?

14 A. Twenty-three years.

15 Q. And in that 23-year period of time, how
16 many other suicides have occurred in your jail to
17 your memory?

18 A. We've had three.

19 Q. You told me about the one earlier in about
20 1989 or so that you gave a deposition for. Is that
21 one of those three?

22 A. Yeah.

23 Q. Okay. What are the others if you can
24 recall?

25 A. And then I had one in '01 or '02. Joe --

Page 11

1 MR. HILL: You just have to -- if you
2 don't know you don't know.

3 A. I don't know just what date.

4 Q. Was that Mr. Thompson?

5 A. No.

6 Q. Who was that?

7 A. Oh, good gracious. I can't think of that
8 boy's name now.

9 Q. Was it a hanging?

10 A. Yes.

11 Q. What did that person use to hang himself?

12 A. He used a sheet and the bars in that
13 window.

14 Q. The bars in the window in the juvenile
15 cell --

16 A. Yeah.

17 Q. -- that Mr. Parks was in?

18 A. Yeah.

19 Q. Is that why those bars have since been
20 covered up?

21 A. Yeah.

22 Q. All right. What about the one in 1989, was
23 that a hanging?

24 A. Yeah.

25 Q. And what did the person use in that case?

Page 12

1 A. The same thing, the bars in the window.

2 Q. And a sheet?

3 A. Yeah. Uh-huh (Indicating yes).

4 Q. All right. You said there were three.

5 A. And I don't remember what year it was that
6 Mr. Thompson done that. I don't remember that year,
7 the date on it.

8 Q. Mr. Thompson hung himself as well?

9 A. Yes.

10 Q. And I understand he didn't hang himself in
11 that same cell?

12 A. No, he didn't hang himself. I'm not sure
13 there either. I wasn't there that day. But, now, he
14 didn't -- I don't think he hung himself in that
15 window either, because I think we had done plated
16 them when that happened.

17 Q. Plated it? What do you mean?

18 A. Put that -- welded the plates over the
19 window of the cells.

20 Q. Do you know what Mr. Thompson used to hang
21 himself?

22 A. I'm not sure on that. No.

23 Q. A bed sheet or a blanket?

24 A. I'm not sure.

25 Q. And then, of course, the one we're here to

Page 13

1 talk about today; Mr. Sons?
 2 A. Uh-huh (Indicating yes).
 3 Q. And those are the only -- so that's
 4 actually four suicides?
 5 A. Yeah.
 6 Q. Are those the only ones you can remember?
 7 A. That's all we've had.
 8 Q. Okay. What about attempted suicides in the
 9 jail?
 10 A. I want to think there was one but I'm not
 11 sure on it.
 12 Q. Was it an attempted hanging?
 13 A. I'm not sure. I'm thinking that it was --
 14 we had a Dowdy, of course, he was just one of those
 15 that would do anything for attention. I don't think
 16 he intended to do anything, but I think he tried it.
 17 Q. And to the best of your recollection, was
 18 it prevented by jail staff?
 19 A. Yeah, the jailers, uh-huh (Indicating yes).
 20 Q. And how did they prevent it?
 21 A. I think he seen him and seen what he was
 22 doing and got him.
 23 Q. Seen him on video?
 24 A. I think so, yeah.
 25 Q. Do you remember who that was? Was it

Page 14

1 Mr. Stanton?
 2 A. I'm not sure on what jailer was on that
 3 day.
 4 Q. Okay. Other than Mr. Dowdy, to the best of
 5 your recollection do you remember any other attempted
 6 suicides in your jail?
 7 A. No.
 8 Q. Okay. Are you saying that they didn't
 9 happen or you just don't recall any?
 10 A. We've not had any other than --
 11 Q. Okay. Prior to becoming sheriff 23 years
 12 ago, did you have any prior law enforcement training?
 13 A. No.
 14 Q. What made you decide you wanted to be
 15 sheriff?
 16 A. Just from the way things were going and I
 17 just felt like I could maybe help some.
 18 Q. Did you attend yourself the academy? Did
 19 you go down to --
 20 A. The county did. I went to the sheriff's
 21 academy after I was elected.
 22 Q. Since that time, have you -- educate me a
 23 little bit. Do sheriffs have to undergo continuing
 24 education as it relates to being certified or keeping
 25 a certification?

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1 A. No. We don't have to. We update it some.
 2 We go to the sheriff's association, to the meetings,
 3 and it updates us some on all of it.
 4 Q. Were you the -- were you the one
 5 responsible for creating and implementing the
 6 policies and procedures that are being used today?
 7 A. Yes, sir.
 8 Q. That's your baby?
 9 A. Uh-huh (Indicating yes). Yeah. When I
 10 came here we didn't have any.
 11 Q. Do you remember when you, after you -- how
 12 long after you came, initially came that you actually
 13 undertook to implement policies and procedures?
 14 A. I came in office in January of 1988 and
 15 immediately afterwards we started, you know, putting
 16 it together.
 17 Q. When did you complete the what we now have
 18 as the policies and procedures of the jail?
 19 A. You know, we done it, we completed it in
 20 '88. But I'm sure we've, you know, we've updated it
 21 as we went along. But I don't remember the dates of
 22 anything on any of that.
 23 Q. Okay. When is the last time you recall
 24 making any official changes to the policies and
 25 procedures?

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1 A. It was right after Deputy Batts come in
 2 with me, I think. I don't know how many years ago
 3 that has been. But Joe and I, you know, updated it
 4 some then.
 5 Q. Did you update at all anything related to
 6 suicide prevention or suicide topics?
 7 A. I'm not sure what all we updated on it.
 8 And I don't remember updating that, but I'm not
 9 saying we didn't, but I don't -- I think that's
 10 pretty well what we've had in place, you know. But
 11 I'm not sure.
 12 Q. Okay. Approximately how long has Joe Batts
 13 been with you? He can't answer. If you know, you
 14 know.
 15 A. When you're as old as I am, time gets away
 16 so fast. I don't know. Say eight years ago? Ten
 17 years? I'm not sure. He has been with me for
 18 several years.
 19 Q. So is it a fair statement to say it has
 20 been at least eight or ten years since any changes
 21 were made to policies?
 22 A. I would say so, yes.
 23 Q. Okay. And as we sit here today you can't
 24 even recall what those changes were?
 25 A. No. You know, we just kind of changed it

Page 17

1 up some as we went along on it.

2 Q. Who is responsible for providing training
3 to your jail employees?

4 A. Well, all of my jailers have been certified
5 jailers that went to the school for jailers.

6 Q. As of September 2015 when this incident
7 happened, who were the jailers that were employed by
8 Benton County?

9 A. Who were they?

10 Q. Uh-huh (Indicating yes). How many do you
11 have?

12 A. We've got -- we've got three full-time and
13 then I think we've got two part-time.

14 Q. Is that the same way it was back in
15 September of '15?

16 A. Yes. Uh-huh (Indicating yes).

17 Q. And the three full-time, you obviously have
18 Mr. Batts, you have Johnny Stanton and is it Willie
19 Brown?

20 A. No, we got John -- Mr. Batts is not a
21 jailer. I've got Johnny Stanton and Willie Brown and
22 Daniel -- what's Daniel's last name, Joe? I don't
23 even --

24 MR. HILL: Just the best you remember.

25 Q. (Mr. Stroud) If you don't remember. Just

Page 19

1 Q. And as far as the hours that the jailers --
2 you have three full-time and two part-time. How does
3 that work? Do they work on shifts or what?

4 A. Yeah. A jailer will come in at 6:00 in the
5 morning and he'll work until 2:00. Then another one
6 will come in at 2:00 and work till 10:00, and then
7 from 10:00 till 6:00.

8 Q. So at any given time there's at least one
9 jailer there with one dispatch person?

10 A. Yeah. Uh-huh (Indicating yes).

11 Q. And I guess dispatch is 24 hours a day,
12 right?

13 A. Yeah. Dispatch is 24 hours.

14 Q. Because the dispatch office there at the
15 Benton County jail is also the 911 operator?

16 A. Yeah.

17 Q. Right?

18 A. Uh-huh (Indicating yes).

19 Q. Is that a yes?

20 A. Yes. I'm sorry.

21 Q. That's okay. And so is it also true that
22 given the fact that that desk there in the jail is a
23 911 call center, that somebody has to be at that desk
24 at all times?

25 A. Yes.

Page 18

1 somebody named Daniel?

2 A. Yeah. Just Daniel. I don't remember what
3 Daniel's last name is.

4 Q. Full-time jailer. What about part-time
5 jailers, who are they?

6 A. I've got Leon Crawford and James Couch.

7 Q. And it's your testimony that all of these
8 individuals have been through the state certification
9 for jailers?

10 A. Yeah.

11 Q. Okay. Other than the state certification,
12 which is required by the State of Mississippi, do any
13 of -- have any of them had additional training as it
14 relates to jail operation?

15 A. No, not that I know of.

16 Q. That's not something you require as the
17 sheriff?

18 A. No.

19 Q. How many does the jail hold there in Benton
20 County? If you're at full capacity, how many inmates
21 or detainees can you hold?

22 A. Twenty-six. I believe it's 26.

23 Q. Twenty-six beds? And that was the same way
24 back in September of 2015?

25 A. Yeah.

Page 20

1 Q. So I assume, correct me if I'm wrong, that
2 if your dispatcher or the 911 operator has to use the
3 restroom, then there's someone else at the jail that
4 can fill his or her spot while they're out?

5 A. No. I just have one dispatcher. If they
6 have to use the restroom, you know what I mean, I
7 don't have another dispatcher that can sit down
8 there.

9 Q. Okay.

10 A. You know.

11 Q. What if the person needs to take a lunch
12 break or needs to run to the store to pick up
13 something?

14 A. They don't do that. They don't leave the
15 dispatch office. I mean, the restroom is right
16 beside the office. And they don't leave that office,
17 my dispatchers don't.

18 Q. On a typical day where you have, you know,
19 I think the day that this happened with Mr. Sons
20 there was about 13 inmates or detainees in the jail.
21 Is that your recollection?

22 A. I'm not sure. No, sir.

23 Q. On an average day though you at least have
24 a dispatcher there, correct?

25 A. Yeah.

Page 21

- 1 Q. And is it a she?
 2 A. Yes.
 3 Q. What's her name?
 4 A. Well, at the time this happened?
 5 Q. Yes.
 6 A. Was Missy Campbell.
 7 Q. Okay. And where is Ms. Campbell now?
 8 A. Ms. Campbell passed away in July.
 9 Q. Was she sick?
 10 A. Left work one afternoon at 5 o'clock or at
 11 6 o'clock and they called me at 2 o'clock in the
 12 morning, they found her dead, her daughter did.
 13 Q. Was it suicide?
 14 A. No. She just -- I don't know if she had a
 15 heart attack or what. They didn't -- she was in the
 16 floor at home when --
 17 Q. So Ms. Campbell was the dispatcher at the
 18 time Mr. Sons was in your jail, correct?
 19 A. Yes. That's correct.
 20 Q. So it would have been at least her there,
 21 right?
 22 A. Yes.
 23 Q. Her job responsibility was to stay at that
 24 desk and do what?
 25 A. And to dispatch, you know.

Page 22

- 1 Q. Answer phones?
 2 A. Yes.
 3 Q. Okay. Was she the primary contact when the
 4 phone rang at the Benton County Sheriff's Department?
 5 A. Yes.
 6 Q. In my -- in our observation at the jail a
 7 little while ago I noticed that there was a big video
 8 monitor there at her desk as well; is that correct?
 9 A. Yes.
 10 Q. Is that a live feed from the surveillance
 11 around the jail?
 12 A. Yes.
 13 Q. Was part of her job responsibility, in
 14 addition to dispatch and 911 and answering phones, et
 15 cetera, was it to monitor the video?
 16 A. Yes, to a certain extent. What I mean,
 17 they understand that if that 911 line or that phone
 18 rings they have to -- you know, that's their job is
 19 to take care of that. And we put the monitor there
 20 where, you know, where we could monitor, where they
 21 could, you know, if something -- you know, just to
 22 watch it, you know, as much as they possibly could.
 23 But, now, when that 911 phone or our phone rings then
 24 they have to -- you know, that's their job and
 25 dispatching my deputies.

Page 23

- 1 Q. And the other area where I think
 2 Mr. Stanton was sitting today when I went in there,
 3 what would you call that room?
 4 A. That's the jailer's office.
 5 Q. Okay. I also noticed there was a, looks
 6 like a big screen there for video as well?
 7 A. Yes.
 8 Q. Where live feed video surveillance from the
 9 jail comes there, correct?
 10 A. Uh-huh (Indicating yes).
 11 Q. And is that where the jailer is expected to
 12 stay?
 13 A. That jailer is there unless he's booking
 14 somebody in or something, that's his -- that's where
 15 he stays.
 16 Q. Okay. I said earlier, and I drew an
 17 objection for it, I don't know if that was the
 18 reason, but I said that you were the chief law
 19 enforcement officer for the county. Is that a true
 20 statement?
 21 A. Yes.
 22 Q. And you're head over the sheriff's
 23 department, correct?
 24 A. Yes.
 25 Q. Head over the jail?

Page 24

- 1 A. Yes.
 2 Q. And you're head over all the employees of
 3 the department in the jail, correct?
 4 A. Yes.
 5 Q. And I think you told me earlier that you're
 6 head over or responsible for all policies and
 7 procedures that are utilized in the department and in
 8 the jail?
 9 A. Yes.
 10 Q. You're in charge of any training as it
 11 relates to deputies; is that right?
 12 A. Well, all my deputies are certified through
 13 the training academy.
 14 Q. If any of your deputies you feel need
 15 additional training in certain areas it's your
 16 responsibility to see that they get it?
 17 A. Yes.
 18 Q. As well as training for your sheriff's
 19 department staff, correct?
 20 A. Yes.
 21 Q. Was Mr. Batts, for no better way of saying
 22 it, your eyes and ears in the jail?
 23 A. Excuse me?
 24 Q. Was Mr. Batts back in September of '15 your
 25 eyes and ears in the jail?

Page 25

1 A. Yes, sir. What I mean, Mr. Batts, if I'm
2 not there then he's the one that takes over.

3 Q. What hours were you typically working or do
4 you typically work at the jail?

5 A. Neither one of us have any set hours.
6 We're in and out of that jail at all hours.

7 Q. On an average day though when not much is
8 going on, do you and Mr. Batts kind of camp out at
9 the jail?

10 A. Well, we're around there, you know, doing
11 paperwork, first one thing and another and, you know,
12 just keeping things on track. But we're there pretty
13 much but not -- you can't stay around the jail.

14 Q. Why is that?

15 A. Some of these people, when they want \$10 or
16 they want to do this or somebody is wanting this and
17 wanting that and they see your vehicle there, then
18 it's hard to -- you know, folks -- in a rural county
19 like this, everyone knows everybody, they're always
20 wanting this and wanting that, you know. So we
21 don't -- we don't stay around the jail much. You
22 know, unless we -- we're around there a lot but not a
23 whole lot. We don't sit there seven or eight hours a
24 day.

25 Q. Do you believe, Sheriff, that it's

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1 Department to have up-to-date training and
2 comprehensive policies and procedures at their
3 disposal to provide for the safety of the inmates
4 there?

5 MR. HILL: Object to the form of the
6 question. You can answer.

7 A. I feel that if, you know, if I feel they
8 need it or if they feel they need it and tell me, you
9 know, then we'll do that.

10 Q. (Mr. Stroud) I mean, the question was
11 though, do you believe that it's essential for them
12 to have up-to-date training?

13 A. Yes.

14 Q. And do you believe that it's essential for
15 them to have comprehensive policies at their disposal
16 to make sure that inmates are safe?

17 A. Yes.

18 Q. Do you believe it's important as the chief
19 law enforcement officer for the county for you to
20 always be monitoring the effectiveness of the
21 department's policies?

22 A. Yes.

23 Q. Do you do that?

24 A. Yes, we pretty well do.

25 Q. Do you believe it's important when you find

Page 26

1 essential for your jailers and your staff at the
2 Benton County jail to be well trained?

3 A. Yes, I do.

4 Q. And you mentioned state certification.
5 Were you referring to the jailer officer standard
6 training offered --

7 A. Yes.

8 Q. -- through Mississippi Department of Public
9 Safety?

10 A. Yes. Whatever the training that's required
11 for them.

12 Q. Okay. You believe, Sheriff, that it's
13 essential that the jailers that work for you at the
14 Benton County Sheriff's Department and the staff
15 there have all the tools necessary to them to do
16 their job?

17 A. Yes.

18 Q. Do you believe that the jailers and staff
19 at the Benton County Sheriff's Department, that it's
20 essential for them to have the tools necessary to
21 provide for the safety and well-being of those who
22 are being housed there?

23 A. Do I believe it? Yes.

24 Q. Do you believe that it's important for
25 jailers and the staff at the Benton County Sheriff's

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1 that policies aren't effective and they're not
2 working that you make changes to outdated or
3 ineffective policies?

4 A. Yes.

5 Q. Do you believe that as of September 19,
6 2015, that Benton County Sheriff's Department jail
7 policies and procedures were adequate to ensure the
8 safety of the detainees in your jail?

9 A. Yes.

10 Q. Would you say that you're the most
11 knowledgeable person within the Benton County
12 Sheriff's Department to discuss policies and
13 procedures within the jail?

14 A. All right. Say that one more time.

15 Q. Sure. Would you be the most knowledgeable
16 person, since you created and implemented the
17 policies, to discuss the policies and procedures
18 within the jail?

19 A. Well, I wouldn't say I'd be the most
20 knowledgeable, no. I mean, chief deputy and myself,
21 we discuss it, you know. We would discuss it and
22 then if we feel it needs updated or something then
23 we --

24 Q. Your attorney provided me with a copy of
25 some policies and procedures. I'm going to ask you,

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1 if you would, to look through this and tell me if
2 this is what you were referring to that you
3 implemented at Benton County Sheriff's Department?

4 A. Yeah. I'm sure this is it. (Witness
5 reviews document.) Yes. This is going to be it.

6 Q. Okay. It looks like several of these --
7 well, really each page may end up having a different
8 font or a different size font. Do you notice that?

9 A. A different what now?

10 Q. Different -- it looks like they were typed
11 at different times or that they were gathered from
12 different sources. Does that make sense?

13 A. Yes. It could possibly be.

14 Q. When you were creating or implementing
15 these policies, did you just find policies you liked
16 from other places and copy them and kind of put them
17 in there?

18 A. I started this -- when I come in here I was
19 a truck driver. And I walked in here and I checked
20 around and my policies started from DeSoto County's.

21 Q. Okay.

22 A. And that's where I started my policies and
23 procedures from DeSoto County's deal.

24 Q. So you contacted then Sheriff Riley, I
25 assume?

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1 A. Yeah, Sheriff Riley.

2 Q. Okay. And he was willing to provide you
3 with a copy of theirs?

4 A. Yeah. And that's how this all got started.
5 And then since I've, you know, just updated it along.
6 But that's where it got -- that's where I started it
7 from.

8 Q. Okay. Let me see this real quick. So if I
9 were to check DeSoto County's policies from 23 years
10 ago and compare it with what I'm looking at here
11 today --

12 A. It should be pretty much the same.

13 Q. Okay.

14 A. That's how I started these policies.

15 Q. Okay. I'll show you -- you said you
16 reviewed this portion of the policy in preparation
17 for your deposition, correct?

18 A. Uh-huh (Indicating yes).

19 Q. That deals with the subject of suicide and
20 attempted suicide?

21 A. Uh-huh (Indicating yes).

22 Q. And you see how the first sentence here
23 says, the policy -- read that for me, if you would.

24 A. "To make every effort possible to prevent
25 suicide or attempted suicide."

Page 31

1 Q. And the next sentence?

2 A. "To protect the physical and mental health
3 of all inmates and the staff of the Benton County
4 Sheriff's Department."

5 Q. Do you see where it says to protect the
6 physician, not physical? It actually says the word
7 physician?

8 A. Yeah, it's physician.

9 Q. That's a typo obviously?

10 A. Yeah.

11 Q. Would that typo have been the same in
12 DeSoto County's policy?

13 A. I don't know now. That's what I say.
14 We've updated it along. I don't know if that would
15 be the same or not.

16 Q. And you see where it says, where it says
17 Benton County Sheriff's Department. That appears to
18 be in a different --

19 A. Yeah.

20 Q. Like it was typed in there. Do you see
21 that?

22 A. Yeah.

23 Q. Do you recall taking that and maybe whiting
24 out DeSoto County and putting Benton County?

25 A. That has been twenty-something years ago.

Page 32

1 I don't know.

2 Q. That's what it looks like though, doesn't
3 it?

4 A. But, you know, I don't know. I don't know
5 on that.

6 Q. That's what appears to have happened
7 though, right?

8 A. Yeah. Uh-huh (Indicating yes).

9 Q. The same thing goes for the next page, Page
10 2, where it says, "A complete written report shall be
11 submitted to the jailer on duty as soon as possible
12 to the," and it looks like somebody filled in the
13 sheriff or chief deputy.

14 A. Sheriff or chief deputy. Uh-huh
15 (Indicating yes).

16 Q. That would have been something I guess you
17 or somebody in your office would have typed in there?

18 A. I'm sure. I'm sure it would have been,
19 yeah.

20 Q. Are these policies and procedures on a
21 computer where you can edit them or are they just --
22 there's a copy in a file somewhere where you made
23 copies to give to employees?

24 A. Yeah. I just made copies and give to
25 the -- now, as far as I know, I'm not a computer man

Page 33

1 so as far as I know it's not, unless Deputy Batts may
2 have it on one.

3 Q. Sure. So the changes you would have made
4 over the past 23 years we could pretty well go in and
5 see just because it would be a different font, right?

6 A. Possible, yeah.

7 Q. Because you don't have the access to go
8 into a computer and actually back up and retype,
9 right?

10 A. Not that I'm familiar with.

11 MR. STROUD: Okay. Let's mark this as
12 Exhibit 1 to your deposition.

13 (Exhibit No. 1 -- Policy and
14 Procedures for Jail Facility -- marked and may be
15 found attached to the transcript.)

16 Q. (Mr. Stroud) We've talked about this
17 already, Sheriff, but what I've marked as Exhibit 1,
18 these are all the written policies and procedures
19 that govern the operation of the jail, right?

20 A. Uh-huh (Indicating yes).

21 Q. There aren't some someplace else that we
22 just haven't seen?

23 A. No.

24 MR. HILL: Can I compare the exhibit
25 to what we have?

Page 35

1 Q. As far as you know though, nobody sits down
2 and goes through them with each new hire, they're
3 just expected to read it, right?

4 A. Yeah. We just --

5 Q. I didn't -- I looked through the policies.
6 I didn't see anything in your policies as it relates
7 to preservation of evidence. Do you know what I mean
8 by that? Does the jail have a policy whereby if
9 something bad happens, someone commits suicide,
10 someone dies, something bad happens in the jail, that
11 the jail preserves evidence related to that incident?

12 A. All right. Now, you're running off and
13 leaving me a little bit. The evidence --

14 Q. Sure. Do you have any policies that you
15 require of your jailers or the Benton County
16 Sheriff's Department that says, hey, evidence has got
17 to be preserved and this is how it has to be
18 preserved?

19 MR. HILL: Do you mean written
20 policies?

21 Q. (Mr. Stroud) Yes. Written policies.

22 A. I don't guess. Because on that, it's like
23 I said awhile ago, we turned it over to MBI. You
24 know, we don't bother any of it. They take it all.

25 Q. For example, the video surveillance in the

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1 MR. STROUD: Sure.

2 Q. (Mr. Stroud) Now, is it your
3 responsibility to see that the policies and
4 procedures that we've marked as Exhibit 1 are
5 followed in your jail?

6 A. Yes.

7 Q. And how are employees when they're first
8 hired trained on these policies and procedures, apart
9 from giving them a copy?

10 A. Yeah. Each one has got a copy of it. You
11 know, we give each employee a copy of it. And as far
12 as trained --

13 Q. They're supposed to be able to read?

14 A. Yeah.

15 Q. Okay. It's a learn on the job kind of
16 thing, right?

17 A. Yeah.

18 Q. So when a new employee comes in, as far as
19 training on policies and procedures, they're given a
20 copy of it and then they're just expected to read it?

21 A. We give them a copy, but also the other
22 jailers, you know, as they come in, if I hire a new
23 employees then another jailer works with him until,
24 you know, until -- he stays with him until he's able
25 to do it by himself.

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1 jail, when we were there today I think I counted at
2 least four or five video cameras in that jail; is
3 that right?

4 A. Uh-huh (Indicating yes). Yeah, there are
5 several in it.

6 Q. Do you have a policy, a written policy that
7 says if something happens in the jail, like a
8 suicide, that your jailers are to preserve all the
9 video evidence related to that inmate?

10 A. Well, we automatically do that.

11 Q. Okay. And what -- do you have a policy, a
12 written policy though that says they're to do that?

13 A. I don't know on that now, because we
14 haven't had the cameras all that long. I'm not sure
15 if we have that or not.

16 Q. As sheriff do you have an unwritten policy
17 that you tell your jailers, hey, if something like
18 this happens I want you to do X? What do you tell
19 them to do?

20 A. Yeah, they know.

21 MR. HILL: Object to the form of the
22 question. You can answer.

23 A. You know, they won't get rid of anything.
24 No, sir.

25 Q. (Mr. Stroud) How long does the video

Page 37

1 surveillance record to the hard drive?

2 A. I'd have to check. I'm not sure just how
3 long it goes before -- Chief Batts could tell you
4 that. I'm not sure.

5 Q. Are you aware whether it's taped over if
6 you don't preserve it or whether it just stays out
7 there?

8 A. I'm not sure on it. It stays for quite a
9 while but I'm not sure how that works.

10 Q. Do you, the sheriff, know what video was
11 preserved in this case and what video was not
12 preserved?

13 A. That's what I say. We turned it all over
14 to MBI and they, you know, they took it.

15 Q. With all due respect, Sheriff, though the
16 MBI didn't come in and download video from your
17 server. Somebody in your jail actually provided them
18 with a CD, correct?

19 A. Yes.

20 Q. Okay. So do you know as we sit here today
21 what evidence was preserved and what wasn't
22 preserved?

23 A. No.

24 Q. Could you see how it would be important for
25 an investigation to preserve all video?

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1 to me. I mean, I'm not -- it would just be --

2 MR. HILL: Philip, I don't mean to
3 interrupt, but Exhibit 1 appears to be -- have
4 several differences between what I've produced.

5 MR. STROUD: Okay.

6 MR. HILL: I would suggest that we
7 simply use what I produced to you.

8 MR. STROUD: That's fine.

9 MR. HILL: I think I have a full set.

10 MR. STROUD: I think what I did was I
11 removed the jail policies from the sheriff's
12 department policies.

13 MR. HILL: Okay.

14 MR. STROUD: So if you want to include
15 the entire thing and substitute it, that's fine, as
16 long as he identifies it.

17 MR. HILL: Okay. Let's do that now
18 before we forget. Regina, if you'll just give me
19 another one. This is what I produced to the other
20 side. So he wants you to identify it.

21 MR. STROUD: Make sure it's accurate
22 and complete.

23 THE WITNESS: (Witness examines
24 documents.) This appears to be it. I think it's
25 going to be it. That's going to be it.

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1 A. Oh, yeah.

2 Q. Not just the video of someone hanging? The
3 video of the hallway, for instance, outside to see
4 whether he was being checked on, would that be
5 important to you as sheriff to know what was going on
6 before he died?

7 A. All right. Now, you're leaving me again
8 now.

9 Q. Sure. Would it be important to you as
10 chief law enforcement officer for the county for
11 purposes of investigating a suicide in your jail to
12 preserve all video in the jail --

13 A. Yeah, it would.

14 Q. -- not just within the cell?

15 A. Yeah, it would.

16 Q. Okay. Why?

17 A. Why?

18 Q. Uh-huh (Indicating yes).

19 A. Where I could watch what goes on outside
20 the jail as well as inside the cell.

21 Q. Right. Is that important to you?

22 A. At a time like this it would be, yeah.

23 Q. Tell me why it would be important to you.

24 A. Well, it just would. You know, it would
25 just be important to see what was going on around it

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1 Q. (Mr. Stroud) Okay. You've identified what
2 we've now marked as Exhibit 1 to your -- remarked as
3 Exhibit 1 to your deposition to be a complete copy of
4 the policies and procedures, correct?

5 A. Yes.

6 Q. Okay. All right. Let me switch your
7 attention, if we could, to the case we're here today
8 to discuss; Mr. Sons. As I understand it, Sheriff,
9 there was a live video -- there was a video camera in
10 the corner of Mr. Sons' detention cell, correct?

11 A. Uh-huh (Indicating yes).

12 Q. You have to answer.

13 A. Yes.

14 Q. Okay. And that camera provided a live
15 video feed to not only the dispatcher's desk where
16 she has a large screen TV there, correct?

17 A. Yes.

18 Q. But it also provides the same live video
19 feed to the jailer's desk where he also has a similar
20 large screen TV, correct?

21 A. Yes.

22 Q. Now, given the length of time it took for
23 Mr. Sons to tear his bed sheet, create a rope, tie it
24 through the top hole of his bunk, wrap it around his
25 neck and commence to hang himself, why did no one

Page 41

1 intervene?

2 A. I don't know. I don't know what -- that's
3 what I say. I wasn't there and I've not seen the
4 video on it.

5 Q. What investigation, if any, did you
6 personally do to determine who dropped the ball?

7 MR. HILL: Object to the form. Asked
8 and answered. You can answer again.

9 A. Well, I don't know who dropped it. You
10 know, I don't know. But I'm not -- I don't know.

11 Q. (Mr. Stroud) Can we agree that somebody
12 within the sheriff's department screwed up?

13 MR. HILL: Object to the form.

14 A. Well, I wouldn't say they screwed up, no.
15 I wouldn't say that.

16 Q. (Mr. Stroud) Why?

17 A. Well, you know, I don't have a -- I can't
18 afford to hire a man to sit there and watch that
19 screen, you know, 24 hours a day. I don't have that.
20 I've got jailers that has to do their jailing job.
21 I've got dispatchers that have to do their
22 dispatching job. And I just don't have it, you know.
23 And I'm not going to say who it was. The jailers,
24 that all happened around lunchtime, the jailers are
25 responsible for feeding those inmates at lunchtime.

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1 So I don't know. I wasn't there and I don't know --
2 I don't know what that jailer was doing and I'm sure
3 the dispatcher was dispatching and I don't know. You
4 know, I'm not sure. But I don't have anybody that
5 can watch that monitor 24 hours.

6 Q. Who was the jailer that was charged with
7 the responsibility of being at the jailer's desk and
8 monitoring that day?

9 A. Johnny Stanton was there I think that day.

10 Q. Have you, as chief law enforcement agent
11 for the county, gone to him and asked him, "Johnny,
12 what happened?"

13 MR. HILL: Object to the form. Asked
14 and answered. You can answer again.

15 A. Yes, I've talked to him about it.

16 Q. (Mr. Stroud) What did he say?

17 A. And he said he don't know. He was in and
18 out of that dispatch -- out of the jailer's office at
19 that time. But I don't really know what -- you know,
20 I -- that's what I say. I can't answer for him
21 because I don't know. I just don't know.

22 Q. Can we agree that the entire time Mr. Sons
23 was in that juvenile cell that it was on video?

24 A. Yes.

25 Q. And it was working?

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1 A. Yes.

2 Q. It was recording?

3 A. Yes.

4 Q. That it was available to be viewed if
5 someone chose to view it from either the dispatcher's
6 chair or from the jailer's chair?

7 A. They could see the monitor, they could see
8 it, yes.

9 Q. Video quality was fine, wasn't it?

10 A. Yes.

11 Q. So there was nothing prohibiting either the
12 dispatcher or the jailer on duty, Mr. Stanton, if
13 they had been at the observation chair to actually
14 see Mr. Sons attempting to hang himself if they had
15 just looked, right?

16 A. I don't know how to -- they could see he
17 was doing something. But Mr. Sons, he tied that
18 around his neck and sat down. You know, it wasn't as
19 if he were hanging from the ceiling, you know. He
20 was sitting in the floor. So I -- you know, if I had
21 been there I don't know if I would have noticed that
22 he had done choked himself to death. I don't know.
23 I don't know.

24 Q. And you've never seen the video so you
25 can't opine on that, can you?

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1 A. No.

2 Q. Now, let me shift your attention to when
3 Mr. Sons arrived at Benton County jail. Do you know
4 why he came to the jail?

5 A. I didn't at that time, no. I wasn't there.

6 Q. At what time?

7 A. When he was brought in. I don't know.

8 Q. As we sit here today do you know why he had
9 been brought to the jail?

10 A. Yes. I know now why he had been brought
11 in.

12 Q. Why?

13 A. His father wanted him locked up.

14 Q. Why did his father want him locked up?

15 A. He was afraid of him. Now, this is what
16 I -- now, I didn't talk to Mr. Sons beforehand. This
17 is just what I -- I talked to him afterwards.

18 Q. You never talked to Mr. Sons prior to his
19 son killing himself?

20 A. No.

21 Q. Is it a fair statement to say, Sheriff
22 McMullen, that prior to Mr. Sons committing suicide
23 you had not heard about Mr. Sons or what Mr. Sons,
24 the father, had said as to why he was committing his
25 son to the jail?

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1 A. I never talked to Mr. Sons until after it
2 was over with. That morning after it was over with I
3 came into the office as soon as I found it out and I
4 met with Mr. Sons and I think it was his wife I met
5 with up there in the office.

6 Q. So the first time you even knew anything
7 about why Mr. Sons had brought in his son Jimmy and
8 committed him to the jail was after the suicide
9 occurred?

10 A. Yes.

11 Q. You're sure about that?

12 A. I wasn't there that week. I know I didn't
13 see him.

14 Q. I'm not asking whether you saw him. I'm
15 asking you whether you knew anything about why he
16 committed him to the Benton County jail prior to
17 committing suicide?

18 A. Not that I know of. Unh-unh (Indicating
19 no). I talked with Mr. Sons and all of this come up
20 afterwards.

21 Q. So is it a fair statement to say that prior
22 to -- do I understand your testimony correctly that
23 prior to Mr. Sons committing suicide you didn't have
24 any reason to believe that Sons was a suicide risk?

25 A. Unh-unh (Indicating no).

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1 Q. Is it also a fair statement or do I
2 understand you correctly that prior to Mr. Sons
3 committing suicide you had never heard of him doing
4 anything that would lead you to believe that he was a
5 suicide risk?

6 A. I never met Mr. Sons.

7 Q. I'm not asking whether you met him. I'm
8 asking whether you heard of anything prior to Sons
9 committing suicide that would lead you to believe
10 that he was a suicide risk?

11 A. No.

12 Q. Do you recall being contacted by the --
13 strike that.

14 MR. STROUD: Let's take a quick break.

15 THE VIDEOGRAPHER: We're off the
16 record at 11:13.

17 (Recess.)

18 THE VIDEOGRAPHER: Back on record at
19 11:19.

20 Q. (Mr. Stroud) Okay. I want to go back, if
21 I could, Sheriff, to the discussion we were having
22 about the dispatcher and jailer's obligation to watch
23 the video monitors. We talked about that briefly. I
24 believe what you were telling me was that you don't
25 have the budget or the manpower to ensure that

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1 someone is sitting watching a monitor all day,
2 correct?

3 A. Yes. That's right.

4 Q. I think the words you used were, with
5 regard to the dispatcher, that she's to watch the
6 monitor as much as she can.

7 A. The dispatchers, you know, they've got it
8 to where they can see it. Yeah.

9 Q. And as much as she can by doing her other
10 jobs, I think that's what you told me, correct?

11 A. Well, you know, they don't sit there just
12 glued to it but they watch it. Yeah.

13 Q. How does your policy or procedure change
14 within the jail or your expectations of your
15 employees change within the jail from the task of
16 watching it as much as you can among your other job
17 duties to something more definitive when you have a
18 known suicide risk within the jail?

19 A. A known suicide risk?

20 Q. How does it change? What do the policies
21 require?

22 A. I don't understand a known suicide risk. I
23 don't -- I'm not --

24 Q. Did you consider this Mr. Sons to be a
25 known risk of suicide?

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1 A. Well, I guess you'd say that, but I had no
2 reason to -- he had not shown me anything to suspect
3 suicide.

4 Q. You had never seen him.

5 A. I had never seen him. But, you know, as
6 far as I know he hadn't attempted a suicide or
7 anything.

8 Q. Okay. Did you change any of your policies
9 and procedures from watching the monitor as much as
10 you can to putting a specific watch on him at any
11 time during his stay?

12 A. No. The only thing that we have changed is
13 that we took the bed down in the cell and I put a
14 board by the door for them to sign if they've got a
15 suicide risk in it or, you know, they sign that
16 board. I want them to sign it and time it and date
17 it every 15 minutes since then.

18 Q. I'm not talking about after he committed
19 suicide, I'm talking about before. Did you make any
20 changes to your policy as it relates to Mr. Sons with
21 regard to monitoring him as a known suicide risk?

22 A. No.

23 Q. If you have someone in your jail that is a
24 known suicide risk, and I understand you're telling
25 me that you didn't know, right?

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1 A. Yes.

2 Q. But if you have someone in your jail that
3 is a known suicide risk, what definitive changes do
4 you make to the policy that's in place now for a
5 dispatcher to watch the monitor as much as she can to
6 watching it more closely?

7 A. There's not any. What I mean, I'm doing
8 the best I can do, you know. I don't have any way of
9 changing it.

10 Q. So Mr. Sons was monitored the same way
11 every other inmate is monitored?

12 MR. HILL: Object to the form of the
13 question. Assumes facts not in evidence. You can
14 answer.

15 A. He was monitored more closely because of
16 where he was at, Mr. Sons would have been.

17 Q. (Mr. Stroud) But you could have easily --
18 suicide risk inmates aren't the only ones that go in
19 the J cell, are they?

20 A. If we got one, that's the only place he
21 goes, you know, is right there. The others don't go
22 in there. Now, if we're not full -- you know, if
23 we're full and we don't have a suicide or a mental
24 case, then we use that cell for others.

25 Q. Is that why Mr. Sons was put in there?

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1 A. He asked to be put in there from what I
2 understand.

3 Q. Did you understand that Mr. Sons was ever
4 placed in the J cell because he was a known suicide
5 risk?

6 A. I just heard that he asked -- he asked to
7 be put in by himself.

8 Q. As far as you know he wasn't a known
9 suicide risk, right?

10 A. At that time, no, I didn't know.

11 Q. Where did you get the understanding that
12 Sons asked to be moved to the J cell?

13 A. From the jailers.

14 Q. Mr. Batts told you that?

15 A. From Mr. Batts and the jailers. I found
16 out that day that he had asked, that's where he
17 wanted to be was by himself.

18 Q. So is it a fair statement to say that for
19 Mr. Sons' case in particular, since you didn't know
20 him to be a suicide risk at all prior to him
21 committing suicide, that as far as your policy and
22 procedure for monitoring him he would have been
23 monitored as much as anybody else in that jail?

24 MR. HILL: Object to the form. Asked
25 and answered. He testified the exact opposite.

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1 MR. STROUD: He can answer. You don't
2 need to tell him how to testify.

3 MR. HILL: I'm not.

4 MR. STROUD: He can answer. He's a
5 big boy.

6 MR. HILL: You're repeatedly asking
7 the same question. You can answer again.

8 A. All right. Monitored --

9 Q. (Mr. Stroud) Was he monitored the same way
10 everybody else was monitored that day by the
11 dispatcher and by Mr. Stanton?

12 MR. HILL: Same objection.

13 A. We watch that cell. What I mean, he --
14 like I say, I don't have anybody to sit and watch
15 that monitor 24 hours. I don't have that. And the
16 jailer monitors that cell. If we've got a mental
17 case in it then we monitor it, you know, we watch it
18 as much as possible.

19 Q. (Mr. Stroud) Okay. So it doesn't
20 necessarily change from the way it's done before if
21 you have a mental commitment in there, you just watch
22 it as much as possible, right?

23 A. Yeah.

24 Q. There's no policy or procedure that you're
25 aware of that creates a heightened monitoring of

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1 someone who's in a mental condition?

2 A. No.

3 MR. HILL: Object to the form of the
4 question.

5 Q. (Mr. Stroud) So if a mentally ill
6 individual or someone who's there on a mental
7 commitment that's in custody waiting to be
8 transferred to a mental facility asked to be placed
9 somewhere where he or she could be alone, does that
10 raise any red flags at Benton County Sheriff's
11 Department jail?

12 A. We put -- all of our mental cases we pretty
13 well isolate them on it.

14 Q. You isolate them and you monitor them as
15 much as you can?

16 A. Yeah.

17 Q. When was the first time you had a chance to
18 review Mr. Sons', no better way of saying it, jail
19 paperwork, the Writ, the intake form, things like
20 that?

21 A. Are you into his jailing sheets and all?

22 Q. Yes.

23 A. I looked at them the other day in here.
24 That's all I did.

25 Q. So you hadn't seen them at all --

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1 A. No.
 2 Q. -- until a couple of days before this
 3 deposition?
 4 A. No.
 5 Q. Okay. Now, I know you say you had no idea
 6 that he was a risk for suicide prior to his suicide,
 7 right?
 8 A. Right.
 9 Q. Based upon your review of the documents, do
 10 you see now that he was a suicide risk?
 11 A. I do now, yeah.
 12 Q. And these documents would have been
 13 available to all your jailers, right?
 14 MR. HILL: Object to the form.
 15 A. They would have been there. I'd say they
 16 would have been. We -- on a mental case we get some
 17 papers that day that they're admitted and then some
 18 papers we don't get for another day or so from the
 19 courthouse. Now, I haven't been through it, but, you
 20 know, I don't know what dates he was brought in. I
 21 don't know.
 22 Q. (Mr. Stroud) All the paperwork for a Writ
 23 to Take Custody for a mental commitment that's coming
 24 to your jail, you have access to those documents, do
 25 you not?

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1 MR. HILL: Object to the form.
 2 A. Yeah. Just like in this case the boy's dad
 3 signed the papers to have him picked up and
 4 committed, then we have to get the papers from the
 5 courthouse, you know, to do it and we go get them.
 6 Q. (Mr. Stroud) Do you know whether the jail
 7 had any of the paperwork prior to him committing
 8 suicide?
 9 A. I don't know.
 10 Q. In your conversations with Mr. Batts or any
 11 of your other jailers, do you understand that your
 12 jailers or administrative staff or anyone else that
 13 worked for you in that jail had knowledge that Mr.
 14 Sons was a suicide risk?
 15 A. I don't know. I wasn't there. That's what
 16 I'm saying.
 17 Q. I understand. But in your conversation
 18 with them have you learned that they were aware that
 19 he was a suicide risk before he killed himself?
 20 A. Well, I talked with Deputy Batts, yeah,
 21 then I talked to his dad afterwards.
 22 Q. Mr. Batts, when you talked to him, did he
 23 tell you that he was aware that he was a suicide risk
 24 before he killed himself?
 25 A. He just told me the same thing his dad told

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1 me, that his dad was afraid of him and he was afraid
 2 he was going to hurt himself or hurt somebody. He
 3 was more afraid he was going to hurt someone than he
 4 was himself, I think. He was scared to go home.
 5 Q. And as your chief deputy in the Benton
 6 County jail, what would your policies and procedures
 7 require of Mr. Batts if he learned that someone was
 8 coming to your jail as a mental commitment that was a
 9 suicide risk?
 10 A. Any mental commitment is a suicide risk.
 11 Q. What policies and procedures or mandates
 12 from you as sheriff, the chief law enforcement for
 13 the county, would you put on Chief Deputy Batts if he
 14 had that heightened information about Mr. Sons prior
 15 to committing suicide?
 16 A. Okay. You're leaving me again. What
 17 policy would I put on Mr. Batts?
 18 Q. Yeah. What would you require of Mr. Batts
 19 based on your policies and procedures?
 20 A. To follow the policies and procedures we
 21 have in place.
 22 Q. Specifically, what would you require of him
 23 if he knew, he was on scene and he knew that somebody
 24 was coming to your jail as a mental commitment and
 25 was a suicide risk, what would you require of him?

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1 A. The same as this. Our policies, I expect
 2 him to go by policies.
 3 Q. What policies would you expect him to
 4 follow?
 5 A. What we wrote up right here.
 6 Q. In your own words, tell me what you would
 7 have expected him to do.
 8 A. I don't know. I still don't understand.
 9 You're leaving me as far as expecting him to do. I
 10 expect him to do his job.
 11 Q. Would you have expected Chief Batts,
 12 knowing what he knew about Mr. Sons' suicide risk
 13 before he killed himself, would you have expected him
 14 to do and the jailers to do everything they did in
 15 this case?
 16 MR. HILL: Object to the form. We're
 17 assuming what Joe knew or did not know. But you can
 18 answer to the effect you know. Go ahead.
 19 Q. (Mr. Stroud) Did they do everything like
 20 you would have expected them to do?
 21 A. Yeah.
 22 Q. You wouldn't have asked them to change
 23 anything?
 24 A. I don't know what they could have changed.
 25 Q. Based on your understand of the policies

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- 1 and procedures, they followed them?
 2 A. Yes.
 3 Q. So what happened?
 4 MR. HILL: Object to the form of the
 5 question.
 6 A. So what happened?
 7 Q. (Mr. Stroud) If policies and procedures
 8 were followed --
 9 A. Uh-huh (Indicating yes).
 10 Q. -- how did Mr. Sons fall through the
 11 cracks?
 12 A. I don't know.
 13 Q. To the best of your knowledge, in your
 14 conversation with Mr. Batts or anyone else at the
 15 jail, was Mr. Sons ever officially placed on any form
 16 of suicide watch or prevention?
 17 A. Well, he was placed -- he was treated like
 18 all other mental cases that we bring in. What I
 19 mean, he was placed in that cell and he was watched.
 20 And like I told you, I can't watch it 24 hours. You
 21 know, I just don't have the manpower to do it.
 22 Q. How often would you expect or do you
 23 require that your jailer or dispatcher watch a mental
 24 commitment?
 25 A. It's not required. You know, I expect them

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- 1 A. I don't know what time. I know I just left
 2 there as soon as I got unloaded, I left there and
 3 come right on in.
 4 Q. When you arrived was MBI already there?
 5 A. I believe they were already here. I'm not
 6 sure. I believe they were but I'm not sure.
 7 Q. Was Mr. Sons, had he been moved at that
 8 point?
 9 A. He was still there.
 10 Q. Tell me what you did, if anything, when you
 11 arrived?
 12 A. I didn't. I just looked and that was it.
 13 And then when I turned it -- that's what I say, we
 14 turned it over to MBI and that way, you know, it's --
 15 Q. Who else was there with you? Was Mr. Batts
 16 there?
 17 A. I don't remember if Joe was there or not.
 18 I don't know. I don't remember.
 19 Q. Do you remember who else was there, if
 20 anybody?
 21 A. No. I can't remember who all.
 22 Q. When is the first time you spoke to Mr.
 23 Sons after his son's death?
 24 A. Just immediately after then. They were
 25 here. They were there. They had been notified and

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- 1 to watch it as much as possible, but they just can't
 2 watch it all the time.
 3 Q. Sheriff, do you believe that the policies
 4 and procedures that you've been talking about and
 5 we've identified as Exhibit 1 are adequate to protect
 6 detainees within your jail from suicide risk?
 7 A. Yes.
 8 Q. Tell me when you were first notified.
 9 A. It was on a Saturday morning and I was in
 10 Memphis unloading a load of grain. I was off that
 11 week helping these farmers haul grain and that's
 12 where I was at.
 13 Q. Who contacted you?
 14 A. Missy Campbell.
 15 Q. And tell me about that conversation.
 16 A. She just told me that we had an inmate that
 17 had hung himself.
 18 Q. Did she tell you who it was?
 19 A. Yes. She told me it was a Mr. Sons.
 20 Q. What response, if any, did you give her?
 21 A. I told her I'd be there as soon as I could
 22 get there.
 23 Q. Did it come as a surprise to you?
 24 A. Yes.
 25 Q. When did you arrive at the jail?

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- 1 they were there.
 2 Q. Tell me about that meeting.
 3 A. I just introduced myself, told them who I
 4 was and, you know, we talked there for a little
 5 while. It was him and his wife, and I don't remember
 6 if there was anyone else with him or not that day.
 7 But, you know, we just talked and -- you know, that's
 8 when he told me about his son being, you know, being
 9 sick and he said his wife was afraid to come home
 10 because his son was there and she was living in
 11 Tupelo or somewhere and she wouldn't want to come
 12 home because he was there. And he told me all that
 13 there that day. But other than that, just general
 14 conversation, you know, just talked.
 15 Q. Was he cordial? Was he cordial to you?
 16 A. Yeah. Uh-huh (Indicating yes).
 17 Q. He wasn't disrespectful?
 18 A. Oh, no. No, he wasn't.
 19 Q. Anything else you remember y'all talked
 20 about that day?
 21 A. No, not really.
 22 Q. Do you recall telling him that the jail had
 23 been sued before by somebody who had committed
 24 suicide?
 25 A. No.

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1 Q. You don't recall that conversation?

2 A. I don't remember it. I may have. I don't
3 remember it.

4 Q. Have we talked about everything that you
5 personally did or you asked to be done as far as
6 investigation?

7 A. Well, you know, I'm sure I told him what we
8 were doing as far as the investigation. I know I
9 would have told him that.

10 Q. Have you and I today talked about
11 everything that you either did personally to
12 investigate this incident or had your staff or
13 jailers do?

14 A. Yes.

15 Q. As I understand it, pretty much you left
16 everything up to the MBI?

17 A. Yeah.

18 Q. Other than removing the bunk, the top bunk
19 that was used by Mr. Sons to hang himself, has the
20 jail or sheriff's department made any changes to the
21 inside of the jail?

22 A. No.

23 Q. How about to policy or procedure as it
24 relates to dealing with someone who has suicidal
25 tendencies or that?

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1 A. Well, I'm not saying that as much as, you
2 know, what I am saying that if he's going to do it
3 they're going to do it, you know. If I had of had a
4 man sitting there watching that monitor and seen just
5 exactly what was going on, every minute of it, yeah,
6 it could have been prevented.

7 Q. What do you require of your jailers as it
8 relates to routine checks on inmates?

9 A. Well, they watch the monitors. And then if
10 the inmates need anything back there they'll bump the
11 door or something and the jailer will check on them,
12 you know, at that time.

13 Q. Do you have any policy or procedure that
14 sets forth, or any mandate from you to your jailers
15 that sets forth how often they should be doing
16 physical checks of the cells?

17 MR. HILL: Are you talking about
18 suicide or just anybody?

19 MR. STROUD: Well, let's start with --
20 let's start with suicides, suicide risk patients or
21 inmates.

22 Q. (Mr. Stroud) Let me re-ask the question.
23 For suicide, people with suicide risks, okay, people
24 that are there on mental commitments or people that
25 are there that have a known suicide risk, do you

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1 A. No, not that I'm aware of.

2 Q. So as we sit here today, the policies are
3 just the same as they are in there before you?

4 A. Yes.

5 Q. Do you think that any changes should be
6 made as a result of the things you learn from suicide
7 cases like this?

8 A. You could write up the biggest policy in
9 the world and you couldn't prevent it. There's no
10 way. God knows, you know, it hurts us. But we --
11 you know, you just -- you just -- you know yourself
12 there ain't no way to prevent it. If they're going
13 to do it they're going to do it. And just like in
14 this case, you know, I didn't think there was no way
15 to hang himself off a top bunk in that jail that's
16 four foot tall -- four foot off the ground and him
17 a -- I don't know what size he was, but I'm sure he
18 was 5'9" or a six-foot fellow. I don't know. You
19 know, you just can't prevent all of it. And I wish
20 we could. But a policy, that policy, you know, we go
21 by it. But I don't know of anything that I could
22 change that would help it any.

23 Q. So you brought up the word you can't
24 prevent it. Is it your opinion that this suicide was
25 unpreventable?

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1 require that your jail do physical checks, not just
2 look at the monitor, but do physical checks?

3 A. Yes.

4 Q. What do you require?

5 A. Well, like on an attempted suicide, if we
6 know they're suicidal, what I mean, attempted suicide
7 or anything, then they're required to sign that
8 sheet, to look in that door and sign that sheet.
9 I've got a sheet up there they sign every 15 minutes,
10 you know, and date it, time it and all.

11 Q. As I understand it reading the policy, you
12 correct me if I'm wrong, that's only for people who
13 have actually attempted suicide within the jail,
14 correct?

15 A. Well, you know, yes, something, suspected
16 suicide, attempted suicide, you know, along that case
17 then they're supposed to do that.

18 Q. So if someone actually attempts to commit
19 suicide and they're stopped by a jailer, then they go
20 on to suicide watch, right?

21 A. Yeah.

22 Q. And that requires 15-minute physical
23 checks, right?

24 A. Yeah.

25 Q. But if someone comes into the jail on a

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1 mental commitment, then they're not necessarily on
2 suicide watch like that, are they?

3 A. Not necessarily.

4 Q. Okay. And if somebody comes into the jail
5 on a mental commitment and they have had suicidal
6 tendencies in the past, they're not necessarily on
7 that suicide watch we recommended?

8 A. No.

9 Q. It actually takes having them attempt
10 suicide within the jail to get on that, right?

11 A. Well, yeah.

12 Q. You mentioned that jailers will sometimes
13 go to check on them when they're either --

14 A. Yeah.

15 Q. -- beating on the door or knocking on the
16 door?

17 A. Yeah.

18 Q. Is that -- is that something that is
19 discouraged, for inmates to knock on the door?

20 A. No.

21 Q. If an inmates needs something you expect
22 them to let you know, right?

23 A. Yeah.

24 Q. When you heard that Mr. Sons had hung
25 himself in the jail and it had not been seen by

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1 Q. Did y'all discuss this at all?

2 A. I don't remember. I was coming out of the
3 store and he was going in or he was coming out and I
4 was going in and I just spoke with him just for a --

5 MR. STROUD: Let's mark this as
6 Exhibit 2.

7 (Exhibit No. 2 -- Letter from Philip
8 Stroud to A. A. McMullen, dated 9-22-15 -- marked and
9 may be found attached to the transcript.)

10 Q. (Mr. Stroud) I show you what I've marked
11 as Exhibit 2. Do you see that?

12 A. Yeah, I've seen it.

13 Q. What are you holding? What is that?

14 A. It's just where you wrote us that you were
15 going to represent Mr. Sons.

16 Q. Did you receive that letter on or about
17 September 22nd, 2015?

18 A. I don't know.

19 Q. Do you ever recall receiving that letter
20 several days after this suicide?

21 A. I'm not sure if I remember it or not. I
22 don't know.

23 Q. Is the fax number to the jail 662-224-6307?

24 A. Yes, sir.

25 Q. When is the first time you recall actually

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1 Mr. Stanton or by the dispatcher -- in fact, do you
2 know that as we sit here today, Sheriff, that he had
3 been -- he had hung himself and been in that
4 condition for almost an hour before he was
5 discovered?

6 A. I didn't know it. I know now but I didn't
7 at that time.

8 Q. You've learned that since then, right?

9 A. Yes.

10 Q. Knowing the fact that a mental commitment
11 inmate is there and that there's an opportunity to
12 monitor his actions live by either the dispatcher or
13 the jailer, does it outrage you at all that someone
14 could hang himself in the cell under that
15 supervision and be that way for almost an hour?

16 MR. HILL: Object to the form of the
17 question. Argumentative. You can answer.

18 A. Yes, it does to a -- you know, it --

19 Q. (Mr. Stroud) Any other conversations you
20 had with the family other than that initial one where
21 they came to the jail and learned that their son had
22 died?

23 A. No. I seen Mr. Sons one time shortly after
24 then at the store and spoke to him briefly, but
25 that's all.

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1 seeing this letter?

2 A. I don't know. This is not one that I got
3 when I got served with all these papers.

4 Q. This would have been on September 22nd,
5 2015. If you remember, fine. If you don't, fine.

6 A. I don't remember.

7 Q. Have you since read this letter?

8 A. I just read over what we got when we got
9 the papers that this lawsuit had been filed.

10 Q. I'm going to represent to you this letter,
11 and it speaks for itself, but this letter asks you to
12 preserve all video --

13 A. Yeah.

14 Q. -- within the jail. And I think you've
15 already told me you didn't take steps to preserve any
16 video unless the MBI requested it, right?

17 A. They're the ones that took the case, yeah,
18 they took it for me. I'm sure they got all the video
19 of that.

20 Q. You didn't -- again, you didn't
21 specifically instruct anyone to preserve video?

22 A. No.

23 Q. So what video they did preserve and what
24 video they taped over or erased you have no idea?

25 A. No.

<p style="text-align: right;">Page 69</p> <p>1 Q. Okay. And you said you had never seen any</p> <p>2 video of Mr. Sons actually hanging himself. But have</p> <p>3 you seen any other video for September 18th or 19th</p> <p>4 within the jail?</p> <p>5 A. No.</p> <p>6 Q. Okay. Who's the person that is in charge</p> <p>7 of downloading video and preserving it or burning it</p> <p>8 onto a disc?</p> <p>9 A. I don't know if we do that or not. I don't</p> <p>10 know.</p> <p>11 Q. Who would know within your department?</p> <p>12 A. Deputy Batts would know.</p> <p>13 MR. STROUD: All right. Let's go off</p> <p>14 the record real quick.</p> <p>15 THE VIDEOGRAPHER: We're off the</p> <p>16 record at 11:50.</p> <p>17 (Pause in proceedings.)</p> <p>18 THE VIDEOGRAPHER: We're back on</p> <p>19 record at 11:51.</p> <p>20 MR. STROUD: No further questions.</p> <p>21 EXAMINATION</p> <p>22 BY MR. HILL:</p> <p>23 Q. Arnie, I just have a few questions. Is it</p> <p>24 the policy at the Benton County jail for all mental</p> <p>25 commitment inmates to be continuously monitored on</p>	<p style="text-align: right;">Page 71</p> <p>1 concludes the videotaped testimony of Sheriff Arnie</p> <p>2 McMullen. We're off the record at 11:52, one DVD.</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 70</p> <p>1 24-hour live video?</p> <p>2 A. Yes.</p> <p>3 Q. And is the jailer the person responsible</p> <p>4 for keeping an eye on that mental commitment over the</p> <p>5 video?</p> <p>6 A. Yes.</p> <p>7 Q. And when that person, jailer is moving</p> <p>8 around, whose responsibility is it to watch the</p> <p>9 video?</p> <p>10 A. Well, we've got the monitor in the dispatch</p> <p>11 office, they watch it as much as possible too.</p> <p>12 Q. Okay. My understanding is you've never</p> <p>13 seen the video of him hanging himself.</p> <p>14 A. No.</p> <p>15 Q. So you don't know why he was allowed to sit</p> <p>16 there on the floor for an hour or so before he was</p> <p>17 cut down?</p> <p>18 A. I've never seen it.</p> <p>19 Q. So you don't know why he was allowed to do</p> <p>20 that?</p> <p>21 A. No.</p> <p>22 MR. HILL: I don't have any other</p> <p>23 questions.</p> <p>24 MR. STROUD: No questions.</p> <p>25 THE VIDEOGRAPHER: All right. That</p>	<p style="text-align: right;">Page 72</p> <p>1 CERTIFICATE</p> <p>2 STATE OF MISSISSIPPI)</p> <p>3 COUNTY OF LEE)</p> <p>4 RE: VIDEOTAPED DEPOSITION OF A. A. "ARNIE" McMULLEN</p> <p>5 I, Regina D. Russell, RPR, CCR 1110, a Notary</p> <p>6 Public within and for the aforesaid county and state,</p> <p>7 duly commissioned and acting, hereby certify that the</p> <p>8 foregoing proceedings were taken before me at the</p> <p>9 time and place set forth above; that the statements</p> <p>10 were written by me in machine shorthand; that the</p> <p>11 statements were thereafter transcribed by me, or</p> <p>12 under my direct supervision, by means of</p> <p>13 computer-aided transcription, constituting a true and</p> <p>14 correct transcription of the proceedings; and that</p> <p>15 the witness was by me duly sworn to testify to the</p> <p>16 truth and nothing but the truth in this cause.</p> <p>17 I further certify that I am not a relative or</p> <p>18 employee of any of the parties, or of counsel, nor am</p> <p>19 I financially or otherwise interested in the outcome</p> <p>20 of this action.</p> <p>21 Witness my hand and seal on this 28th day of</p> <p>22 December, 2016.</p> <p>23</p> <p>24</p> <p>25 My Commission Expires: CCR 1110 January 27, 2020 Notary Public</p>

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1 IN THE UNITED STATES DISTRICT COURT FOR THE
 2 NORTHERN DISTRICT OF MISSISSIPPI
 3 OXFORD DIVISION
 4 JAMES LEE SONS, individually and
 on behalf of the wrongful death
 5 beneficiaries of JAMES ALLEN
 PARKS SONS, deceased PLAINTIFFS
 6
 VS. NO. 3:16-CV-181-MPM-RP
 7
 BENTON COUNTY, MISSISSIPPI, ET AL DEFENDANTS

8 CERTIFICATE
 9 I, A. A. "ARNIE" McMULLEN, have read the
 10 foregoing pages, 1-70, of the transcript of my
 11 deposition given on December 7, 2016, and it is true,
 12 correct and complete to the best of my knowledge,
 13 recollection and belief except for the list of
 14 corrections, if any, attached on a separate sheet
 15 herewith. Witness my hand, this the _____ day
 16 of _____, 2016.
 17

18 A. A. "ARNIE" McMULLEN
 19 CERTIFICATE
 20 Subscribed and sworn to before me, this the
 21 _____ day of _____
 22 2016.

23 Notary Public in and for the
 County of _____
 24 My Commission State of Mississippi
 Expires: _____
 25

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1 ADVANCED COURT REPORTING
 P.O. BOX 761
 2 TUPELO, MISSISSIPPI 38802-0761
 3
 4 CORRECTION LIST
 5 JAMES LEE SONS, individually and
 on behalf of the wrongful death
 6 beneficiaries of JAMES ALLEN
 PARKS SONS, deceased PLAINTIFFS
 7 VS.
 BENTON COUNTY, MISSISSIPPI, ET AL DEFENDANTS
 8 Federal - No. 3:16-CV-181-MPM-RP

9 CAPTION
 10 DECEMBER 7, 2016 A. A. "ARNIE" McMULLEN

11 DATE OF DEPOSITION DEPONENT'S NAME
 12 PAGE LINE CORRECTION REASON

13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 _____
 22 _____
 23 _____
 24 _____

25 A. A. "ARNIE" McMULLEN